



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Executive Director

May 7, 2010

Dear Interested Party:

Enclosed is the Initial Discussion Paper on Regulation 1506, *Miscellaneous Service Enterprises*. Discussion regarding proposed amendments to Regulation 1506 regarding meals sold at summer camps is scheduled for the Board's September 14, 2010 **Business Taxes Committee** meeting.

However, before the issue is presented at the Business Taxes Committee meeting, staff would like to provide interested parties an opportunity to discuss the issue and present any suggested changes or comments. Accordingly, a meeting is scheduled in **Room 122 at 10:00 a.m. on May 19, 2010**, at the Board of Equalization; 450 N Street; Sacramento, California.

If you are unable to attend the meeting but would like to provide input for discussion, please feel free to write to me at the above address or send a fax to (916) 322-4530 before the May 19, 2010 meeting. If you are aware of other persons that may be interested in attending the meeting or presenting their comments, please feel free to provide them with a copy of the enclosed material and extend an invitation to the meeting. If you plan to attend the meeting on May 19, 2010, or would like to participate via teleconference, please contact Ms. Lynn Whitaker at (916) 324-8483 or by e-mail at Lynn.Whitaker@boe.ca.gov prior to May 13, 2010. This will allow staff to make alternative arrangements should the expected attendance exceed the maximum capacity of Room 122 and to arrange for teleconferencing.

Whether or not you are able to attend the above interested parties' meeting, please keep in mind that the due date for interested parties to provide written responses to staff's analysis is **June 4, 2010**. Please be aware that a copy of the material you submit may be provided to other interested parties. Therefore, please ensure your comments do not contain confidential information.

If you are interested in other topics to be considered by the Business Taxes Committee, you may refer to the "Business Taxes Committee" page on the Board's Internet web site (<http://www.boe.ca.gov/meetings/btcommittee.htm>) for copies of Committee discussion or issue papers, minutes, a procedures manual and calendars arranged according to subject matter and by month.

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Thank you for your consideration. I look forward to your comments and suggestions. Should you have any questions, please feel free to contact Ms. Leila Hellmuth, Supervisor, Business Taxes Committee Team, at (916) 322-5271.

Sincerely,

Jeffrey L. McGuire
Chief, Tax Policy Division
Sales and Use Tax Department

JLM:llw

Enclosures

cc: (all with enclosures)

Honorable Betty T. Yee, Chairwoman, First District (MIC 71)
Honorable Jerome E. Horton, Vice Chair, Fourth District
Honorable Michelle Steel, Member, Third District
Honorable John Chiang, State Controller, c/o Ms. Marcy Jo Mandel
Ms. Barbara Alby, Acting Member, Second District (MIC 78)

(via e-mail)

Mr. Alan LoFaso, Board Member's Office, First District	
Mr. Gary Qualset, Board Member's Office, First District	
Ms. Mengjun He, Board Member's Office, First District	
Ms. Regina V. Evans, Board Member's Office, Fourth District	
Mr. Doug Anderson, Board Member's Office, Fourth District	
Mr. Lee Williams, Board Member's Office, Second District	
Mr. Ken Maddox, Board Member's Office, Third District	
Mr. Neil Shah, Board Member's Office, Third District	
Ms. Elizabeth Maeng, Board Member's Office, Third District	
Ms. Natasha Ralston Ratcliff, State Controller's Office	
Mr. Ramon J. Hirsig	
Ms. Kristine Cazadd	
Ms. Randie L. Henry	
Mr. Jeff Vest	Mr. Bill Benson
Mr. David Levine	Ms. Freda Orendt
Mr. Randy Ferris	Mr. Stephen Rudd
Mr. Bradley Heller	Mr. Kevin Hanks
Mr. Robert Tucker	Mr. James Kuhl
Mr. Cary Huxsoll	Mr. Geoffrey E. Lyle
Mr. Todd Gilman	Ms. Leila Hellmuth
Ms. Laureen Simpson	Ms. Lynn Whitaker
Mr. Robert Ingenito Jr.	Ms. Cecilia Watkins

INITIAL DISCUSSION PAPER

Proposed revisions to Regulation 1506, *Miscellaneous Service Enterprises*, regarding sales of meals at summer camps

Issue

Should Regulation 1506, *Miscellaneous Service Enterprises*, be revised to clarify the application of tax to meals sold at summer camps?

Background

On February 24, 2010, the Board of Equalization (Board) heard a sales and use tax appeals case regarding the sales of meals at the Young Life Woodleaf camp facility. At issue was whether sales of meals to campers qualified for exemption from tax as student meals under the provisions of Regulation 1506(h).

The petitioner explained that while classes are not held in a classroom, the camp conducts an educational program with scheduled activities including religious, leadership, and life skills training. Campers are required to attend scheduled activities taught by qualified instructors. Accordingly, the petitioner argued that the camp met the requirements for exemption as provided in Regulation 1506(h). The Board agreed with the petitioner and instructed staff to amend Regulation 1506 to clarify the regulation.

Exemption for sales of meals to students. Revenue and Taxation Code section 6363 provides an exemption from the sale and use of meals served or furnished to students of public or private schools, school districts, or student organizations. In addition, Regulation 1506(h) provides the following:

Summer Camps. The tax applies to gross receipts from the sale of meals or other tangible personal property at summer camps, whether operated by municipal or private corporations, or other parties. When a camp qualifies as a school or educational institution, tax, with respect to meals, applies in the same manner as to schools and educational institutions. To qualify as a school or educational institution for purposes of this regulation, the camp must conduct regularly scheduled classes, with required attendance, in charge of qualified instructors.

If a single charge is made for all of the privileges extended by the camp, a segregation must be made and the tax returned on that portion of the total charge representing taxable receipts from the sale of meals or other tangible personal property. In the absence of such a segregation, the taxable receipts from the sale of meals or other tangible personal property shall be determined by the board based on information available to it.

Using the Board's decision in the Young Life case as a guideline, staff proposes to amend Regulation 1506 to clarify when camps' sales of meals qualify for exemption. The Business Taxes Committee is scheduled to discuss the matter on September 14, 2010.

INITIAL DISCUSSION PAPER

Proposed revisions to Regulation 1506, *Miscellaneous Service Enterprises*, regarding sales of meals at summer camps

Discussion

What is a “camp”? Staff believes the provisions of Regulation 1506 are intended for organized camps with facilities similar to those operated by the Young Life organization. That is, the term “summer camps” refers to camp facilities that run traditional camp programs, and not to resorts, conference centers, or other hotel and lodging establishments. Staff further believes that Regulation 1506 was not intended to apply to businesses that provide all inclusive camp packages outside a traditional summer camp facility. For example, an outdoor adventure company that offers rock climbing camps at various state parks for an all inclusive price (lodging, meals, climbing gear, and instruction) is not a traditional summer camp facility.

Based on discussions with interested parties, traditional camps such as those operated by organizations such as the YMCA, YWCA, Girl Scouts, and Boy Scouts meet the definition of an “organized camp” as provided in section 18897 of the California Health and Safety Code. To focus upon the intended camps, staff proposes amending Regulation 1506 to clarify that, for purposes of the regulation, the term “camp” means an “organized camp” as defined in California Health and Safety Code section 18897 (see Exhibits 1 and 2). This requirement would exclude motels, tourist camps, and resorts from the provisions of Regulation 1506.

In addition to being an organized camp under the Health and Safety Code, camps must also qualify as a school or educational institution under Regulation 1506(h) in order for their sales of meals to campers to be exempt as sales of student meals.

Current requirements of Regulation 1506(h). Regulation 1506(h) provides a three-pronged test that camps must meet in order for the camp to be considered a school or educational institution under the regulation. The camp must conduct: (1) regularly scheduled classes, (2) with required attendance, and (3) in charge of qualified instructors.

“Regularly scheduled classes”

Staff believes that a camp session must promote an educational program, but recognizes that camps typically provide this education outside a traditional classroom setting. For example, ropes course activities teach problem-solving, communication, and leadership skills. Ecology, conservation, and geology can be taught during a guided nature hike. In general, most youth summer camps include activities that qualify as regularly scheduled classes.

Conversely, camps or retreats where recreation and fellowship are the primary goals generally do not include activities that meet the “regularly scheduled classes” requirement. The focus of the camp session is rest and relaxation. For example, a “fishing retreat” or “summer concert weekend” where activities may be offered daily, but the focus of the event is recreation, does not conduct regularly scheduled classes. These types of camps also often fail to meet the second prong of the Regulation 1506(h) test.

INITIAL DISCUSSION PAPER

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“Required attendance”

If participation in classes is not required, the camp’s sales of meals are subject to tax. Again, activities at most youth summer camps meet this requirement as campers are required to attend the scheduled activities. Other types of camp sessions, such as adult retreats and family camps often do not meet this requirement as participation in the offered activities is optional. For example, a camp provides meals and lodging for families and offers a variety of classes and recreational activities. Participants are required to attend a camp orientation on the first day, but during the rest of the camp session they can attend as many of the scheduled activities as they want, or they can opt to not participate in any activities. This camp session would not meet the “required attendance” criteria.

“In charge of qualified instructors”

Whether a camp meets the third prong of the Regulation 1506(h) test will depend on the class being taught. Staff interprets “qualified instructors” to mean instructors who have formal training or sufficient experience to adequately prepare them to teach their subject. The level of training and experience needed to be a qualified instructor depends on the class. For example, an instructor teaching CPR and general first aid may need certification by the American Heart Association or Red Cross. A kayaking instructor may have years of experience in kayaking and water safety training. Camps should maintain records that show their instructors’ level of training and/or experience related to the area they teach.

Staff proposes clarifying Regulation 1506(h) by adding examples of camps that meet and do not meet the requirements of the regulation (see Exhibit 1). Staff has also included a grammatical revision to the first paragraph of Regulation 1506(h) to clarify that classes must be conducted by qualified instructors.

Sales of meals to guests, instructors, and other non-students. While sales of meals to campers that qualify as students under Regulation 1506(h) are exempt under Section 6363, no such exemption exists with respect to sales of other meals such as meals sold to instructors, staff, guests, and other non-students. Sales of these meals are subject to tax regardless of whether other meals sold by the camp qualify for exemption.

Sales of other tangible personal property. As explained in Regulation 1506(h), tax applies to gross receipts from the sale of other tangible personal property at summer camps. Accordingly, sales of photos, videos, t-shirts, and other souvenir items sold by camps are generally subject to tax. If the camp paid California tax on these items when they purchased them, they can take a tax-paid purchases resold deduction when the taxable sale is reported.

Based on discussion at the Young Life hearing, staff believes that some camps may not be aware of their need to hold a seller’s permit or that tax applies to their sales of tangible personal property. As part of the implementation of any approved revisions to Regulation 1506, staff will work with interested parties to make camps aware of, and understand their reporting responsibilities.

INITIAL DISCUSSION PAPER
**Proposed revisions to Regulation 1506, *Miscellaneous Service Enterprises*,
regarding sales of meals at summer camps**

Summary

Staff proposes amendments to subdivision (h) of Regulation 1506 to clarify the application of tax to meals sold at summer camps. Staff welcomes any comments, suggestions, and input from interested parties regarding this issue.

Prepared by the Tax Policy Division, Sales and Use Tax Department

Current as of 05/6/2010

(NOTE: Only the relevant subdivision of the regulation is contained in this Exhibit. Other subdivisions are not being amended.)

Regulation 1506. Miscellaneous Service Enterprises.

(h) SUMMER CAMPS. The tax applies to gross receipts from the sale of meals or other tangible personal property at summer camps, whether operated by municipal or private corporations, or other parties. As used in this regulation, "camp" means an "organized camp" as defined in California Health and Safety Code section 18897. When a camp qualifies as a school or educational institution, tax, with respect to meals, applies in the same manner as to schools and educational institutions. To qualify as a school or educational institution for purposes of this regulation, the camp must conduct regularly scheduled classes, with required attendance, ~~in charge of with~~ qualified instructors in charge.

Example of a camp that qualifies as a school or education institution: A camp offers a session where campers have a schedule of daily activities they are required to attend. These activities include team-building exercises, guided nature hikes, and wilderness survival techniques. The camp has documented that their instructors have sufficient training and experience to lead these activities.

Example of a camp that does not qualify as a school or educational institution: A camp offers a session that includes activities that are regularly scheduled. Participants are required to attend a camp orientation on the first day, but during the rest of the camp they can attend as many of the scheduled activities as they want, or they can elect to attend no activities.

If a single charge is made for all of the privileges extended by the camp, a segregation must be made and the tax returned on that portion of the total charge representing taxable receipts from the sale of meals or other tangible personal property. In the absence of such a segregation, the taxable receipts from the sale of meals or other tangible personal property shall be determined by the board based on information available to it.

California Codes
Health and Safety Code

18897. (a) "Organized camp" means a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days or more during one or more seasons of the year.

(b) The term "organized camp" does not include a motel, tourist camp, trailer park, resort, hunting camp, auto court, labor camp, penal or correctional camp and does not include a child care institution or home-finding agency.

(c) The term "organized camp" also does not include any charitable or recreational organization that complies with the rules and regulations for recreational trailer parks.